



## International Covenant on Civil and Political Rights

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### Human Rights Committee

#### List of issues in relation to the fourth periodic report of the Bolivarian Republic of Venezuela\*

##### Constitutional and legal framework (arts. 1 and 2)

1. Please provide information on how the provisions of the Covenant are invoked and implemented before the national courts. Please also describe the current process for giving effect to the Committee's decisions under the Optional Protocol and provide information on the follow-up given to the Committee's Views in which the State's responsibility has been established.

2. Concerning the information contained in the State party report (CCPR/C/VEN/4, para. 92) and given the recommendations issued by the Accreditation Subcommittee of the International Coordinating Committee of National Human Rights Institutions (ICC), please describe the measures taken to strengthen the independence of the Ombudsman's Office in practice, in keeping with the Principles relating to the Status of National Institutions for the Promotion and Protection of Human Rights (Paris Principles) adopted by the General Assembly in resolution 48/134.

##### Non-discrimination, rights of minorities and equal rights between men and women (arts. 2, 3 and 26)

3. In the light of the Committee's previous recommendations (CCPR/CO/71/VEN, para. 23), please provide information on the legal and regulatory framework prohibiting all discrimination, whether direct or indirect, including in private domains, such as housing and employment. Please also describe the current strategies to address discrimination on grounds of sexual orientation and gender identity, including measures to prevent members of the LGBT community from being murdered, assaulted or threatened.

4. Please indicate whether the State has taken steps to amend the provisions regarding adultery and the ban on marriage for 10 months following the dissolution of a previous marriage, which discriminate against women. Please also provide statistical data on the participation of women in the labour market, both in the informal and the formal sector, disaggregated by occupational group and level. Describe also the measures taken to tackle the gender pay gap.

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\* Adopted by the Committee at its 112th session (7–31 October 2014).



**Right to life, violence against women, prohibition of torture and cruel, inhuman or degrading treatment and the fight against impunity (arts. 2, 6 and 7)**

5. Regarding the information contained in the State party report (CCPR/C/VEN/4, para. 37), please indicate the implementation status of the Act on the Right of Women to a Life Free from Violence of 2007, specifying the institutional and structural measures taken and the budget allocated for its practical implementation. In this connection, please specify whether the free legal services provided for in the Act include legal aid before the courts. Please also clarify whether the State intends to repeal article 393 of the Criminal Code, which is incompatible with the aforementioned Act and which exempts rapists from punishment if they marry their victims. Please provide information, disaggregated by the victims' sex, age, nationality and ethnic origin, on: (a) the number of complaints received regarding sexual or domestic violence; (b) the investigations into these complaints; (c) the types of penalty imposed on the offenders; (d) the number of protective measures granted in relation to the total number of requests; (e) the compensation awarded to victims; and (f) the capacity of the four shelters in relation to demand (CCPR/C/VEN/4, para. 41).

6. Concerning the information on cases of torture contained in the State party report (CCPR/C/VEN/4, para. 94), please indicate the measures taken to effectively implement the Special Act to Prevent and Punish Torture and Other Cruel, Inhuman and Degrading Treatment and the prevention mechanisms provided for therein. Please provide statistical data on: (a) the number of complaints of torture and ill-treatment allegedly committed by police officers or prison personnel; (b) the number of proceedings and disciplinary actions undertaken in relation to these cases; (c) the number of subsequent trials, indicating the charges, penalties and disciplinary measures; and (d) any protective measures and comprehensive reparation awarded to the victims. Given the Committee's previous concluding observations (CCPR/CO/71/VEN, para. 8), please indicate the measures taken to guarantee the independence of the investigations conducted by the Criminal Affairs Unit against the Violation of Fundamental Rights (CCPR/C/VEN/4, para. 94).

7. In the light of the Committee's previous concluding observations (CCPR/CO/71/VEN, para. 8), please describe the steps taken to prevent the excessive use of force by law enforcement officers, especially during public protests, and indicate the role of the military and "combat forces" in guaranteeing public order under the Safe Nation Plan. Please specify the actions taken to ensure the prompt and impartial investigation of allegations of excessive use of force — including firearms, rubber bullets and tear gas — to manage protests, attacks against civilians in residential areas and acts of torture and ill-treatment against detained protesters by law enforcement and security officers between February and June 2014 and by armed civilian groups. Please provide details on the number of complaints, any proceedings, trials and penalties and any compensation awarded to the victims.

8. Please report on the progress achieved in preventing and reducing the high rates of murder, abduction and disappearance in the populace and provide updated official data on the number of cases, investigations, stays in proceedings, trials and penalties in relation to these offences. Please also provide information on the status of investigations into the murder of 10 members of the Barrios family between 1998 and 2013. Please describe the steps taken to disband armed civilian groups and to register all weapons and munitions, in keeping with the Arms and Ammunition Dispossession and Control Act of 2013.

**Elimination of slavery, servitude and forced labour (art. 8)**

9. Please provide information on the implementation status of the National Action Plan to Repress and Punish Trafficking in Persons mentioned by the State party (CCPR/C/VEN/4, para. 102). Please describe the measures taken to improve the identification of victims of trafficking, and the protection and comprehensive assistance,

including legal assistance, afforded to them. Please also provide statistical data — disaggregated by offence and the victims' sex, age and country of origin — regarding complaints, investigations, trials and penalties in relation to trafficking cases and the number of victims who have been identified and have received compensation (CCPR/C/VEN/4, para. 104).

**Right to freedom and personal security; rights of persons deprived of their liberty (arts. 9 and 10)**

10. In the light of the Committee's previous concluding observations (CCPR/CO/71/VEN, para. 9), please provide information on the legal and regulatory measures taken to set up a mechanism enabling detainees to receive regular medical check-ups after being taken into police custody. Please clarify whether the presence of a lawyer during questioning is guaranteed under the law and in practice and explain the regime of incommunicado detention.

11. Please provide information on the actions taken to investigate the violations of due process that allegedly occurred during detentions in the State of Lara in April 2013 and in various other states between February and June 2014, and to compensate the victims.

12. Regarding the State party report (CCPR/C/VEN/4, para. 108), please describe the measures introduced into the Code of Criminal Procedure in 2012 regarding (a) pretrial detention and (b) alternatives to imprisonment for convicted offenders, specifying how they comply with articles 9 and 10 of the Covenant. Given the Committee's previous concluding observations (CCPR/CO/71/VEN, para. 10), please provide statistical data on the number of pretrial detainees, including those in police holding cells, in relation to the total number of persons deprived of their liberty and on the average and maximum duration of pretrial detention, by year. Please provide the same data relating to minors deprived of their liberty. Concerning the information provided by the State party, please indicate the measures adopted to reduce procedural delays and their impact on the number of detainees awaiting trial (CCPR/CO/71/VEN/Add.1, para. 7).

13. In the light of the Committee's previous concluding observations (CCPR/CO/71/VEN, para. 11), please provide statistical data on the overall capacity of the national prison system and the total number of inmates. Please describe the results of measures to reduce overcrowding in prisons and police stations, especially the cells at Polilara (Barquisimeto) and Sotillo (Anzoátegui), and to improve medical attention and access to health-care providers, hygiene and nutritional conditions, and access to drinking water for persons deprived of their liberty. Please also provide information on the progress made towards guaranteeing that defendants and convicts are actually kept separate in the national prison system (CCPR/CO/71/VEN/Add.1, para. 5) and on the measures adopted to ensure that minors remain separate from adults for the duration of their deprivation of liberty. Please clarify whether the new prison procedure (CCPR/C/VEN/4, para. 112) and the social and educational programmes set up for adolescents in conflict with the law include military instruction for prisoners.

14. With reference to the previous concluding observations (CCPR/CO/71/VEN, para. 11) and the State's comments thereon (CCPR/CO/71/VEN/Add.1, paras. 1–4), please provide information regarding the impact of the supervisory measures on violence and the possession of weapons in prison. Please describe the policies and plans on combating institutional corruption, the torture and ill-treatment of prisoners and the negligent attitude of guards and military personnel in the face of inmate violence in the various prison settings. Please also provide information on investigations, prosecutions and penalties regarding the confrontations that occurred in "Sabaneta", Uribana and Yare prisons, the Andean Region Penitentiary Centre, the El Rodeo I and El Rodeo II Capital Detention Centre and the Vista Hermosa, Tocarón and La Pica prisons.

**Fair trial and independence of the judiciary (art. 14)**

15. In the light of the Committee's previous concluding observations (CCPR/CO/71/VEN, paras. 13–14), please provide information on the measures adopted to safeguard the independence of the judiciary and prevent undue interference in the administration of justice, including:

(a) The percentage of tenured judges with stable mandates and the measures in place to ensure the stability of other judges' mandates;

(b) The call for the next public competitions for tenured judges and the membership of the body responsible for the appointment and promotion of judges;

(c) The regulations governing the dismissal of untenured judges and the manner in which they may be removed from office;

(d) Annual data on the number of judges and other justice officials who have been removed from office since 2004;

(e) The steps taken to guarantee the right to a fair trial for Judge María Lourdes Afiuni, who was detained in 2009 for having ordered the release on parole of Eligio Cedeño, whose detention had been deemed arbitrary by the Working Group on Arbitrary Detention and, later, by the Human Rights Committee in case No. 1940/2010. Please include information on the status of the investigation into the assault, intimidation and rape, allegedly by a government official, of Judge Afiuni during her detention and any compensation awarded to her.

16. Please provide information on the competence of military courts to hear cases against civilians, for example cases involving trade union leaders.

17. Please indicate the measures taken to guarantee the right of lawyers to maintain the autonomy of their bar associations, in particular with regard to the appointment of their boards of directors, disciplinary boards and other authorities. Please also describe the measures taken to ensure that lawyers may exercise their functions without intimidation or undue interference, such as in the case of José Amalio Graterol, counsel to Ms. Afiuni, who was sentenced to 6 months in prison for opposing the continuation of his client's trial in absentia.

18. Concerning the Public Prosecution Service, please provide information on:

(a) The percentage of public prosecutors who have been appointed following a competitive examination, as provided for in the Public Prosecution Service Act;

(b) The regulations governing the dismissal of public prosecutors appointed without going through a competitive examination and the manner in which they may be removed from office;

(c) The internal regulations ensuring the impartial assignment of cases.

**Freedom of thought, conscience and religion (art. 18)**

19. In the light of the Committee's previous concluding observations (CCPR/CO/71/VEN, para. 26) and the information contained in the State party report (CCPR/C/VEN/4, paras. 154–157), please describe the measures taken, in law and practice, to permit conscientious objection to military service and provide civilian service as an alternative.

**Freedom of opinion, expression, assembly and association (arts. 19, 21 and 22)**

20. Concerning the information contained in the State party report (CCPR/C/VEN/4, para. 127), please indicate the penalties for incitement set out in the Social Responsibility in Radio and Television Act, such as those imposed on Globovisión in 2011, and explain how they are compatible with articles 19 and 20 of the Covenant. Please provide information on the provisions of the Criminal Code that limit freedom of expression, such as those criminalizing defamation.

21. Please provide information on the criteria for ensuring that the regulation, assignment and oversight of radio frequencies by the National Telecommunications Commission (CCPR/C/VEN/4, para. 128) are transparent and non-discriminatory.

22. Please indicate the practical measures taken to protect the physical integrity of human rights defenders and journalists. Please provide information on the outcome of investigations, trials, judgements and penalties in cases of assault, threats and harassment believed to be linked to the victims' activities as journalists or reporters of human rights violations. In particular, please specify the status of the investigations into: the detention of Rodrigo Diamanti, president of the NGO *Un Mundo Sin Mordaza*, on 8 May 2014; the murder of human rights defender Mijail Martínez in 2009 and the threats against his father, Víctor Martínez in June 2010 and January 2012; the threats against Humberto Prado Sifontes, Director of the Venezuelan Prison Observatory, in June 2011 and May 2012; and the abduction of the husband of Marianela Sánchez Ortiz, an activist for the Observatory, in May 2012 and the threats against her in April 2013.

23. Please provide information on the process for obtaining prior authorization to exercise the right to peaceful demonstration and public assembly and on the restrictions imposed under the National Security Act on persons taking part in peaceful demonstrations. Please also describe the steps taken to ensure that the Organized Crime and Financing of Terrorism Act of 2012 is implemented without infringing freedom of association, expression and peaceful assembly.

24. Regarding the activities of NGOs, please provide information on:

(a) The amendments to the Code of Criminal Procedure, introduced in June 2012, that limit the scope of NGO activities;

(b) The restrictions on the financing of political rights organizations that were introduced in the National Sovereignty and Self-Determination Act of 2010 pursuant to Supreme Court rulings of 2000;

(c) The implementation of the Registration for Comprehensive National Defence Act of June 2014;

(d) The implementation of the People's Power Act and the Communes Act of 2010.

25. In the light of the previous concluding observations (CCPR/CO/71/VEN, para. 27), please comment on the compatibility with article 22 of the Covenant of: (a) the provisions obliging trade unions to have their elections organized and recognized by the National Electoral Council (CCPR/C/VEN/4, paras. 136 and 137); and (b) the laws criminalizing strikes under certain conditions.

**Measures for the protection of minors (art. 24)**

26. Please provide data on the number of children, including street children (CCPR/CO/71/VEN, para. 24), employed in the formal and informal economies and information on the results of programmes and plans, such as the Neighbourhood Children Mission (CCPR/C/VEN/4, paras. 146 and 153), to protect children from exposure to

commercial sexual exploitation and the worst forms of child labour, especially domestic work and dangerous farming activities.

27. In the light of the Committee's previous concluding observations (CCPR/CO/71/VEN, para. 18) and the information contained in the State party report (CCPR/C/VEN/4, para. 140), please indicate whether the State party intends to amend article 46 of the Criminal Code — which sets the minimum age of marriage at 14 years for women and 16 years for men — in accordance with the Supreme Court judgement of 16 October 2014 that partially nullified this provision. Please also clarify whether the provisions that set the minimum age of sexual consent at 12 for girls have been amended.

**Rights of minorities (art. 27)**

28. In the light of the Committee's previous concluding observations (CCPR/CO/71/VEN, para. 28) and the information contained in the State party report (CCPR/C/VEN/4, paras. 160–168), please describe the measures adopted to guarantee that the prior, free and informed consent of indigenous peoples is obtained before granting licences for development or exploration in indigenous territories, providing concrete examples of consultations, such as in the cases of the Pemón, Yekuana and Sanema peoples. Please also indicate the number of projects approved through consultations in relation to the total number of natural resource development projects that adversely affect indigenous communities. Please also indicate the progress achieved in demarcating ancestral lands and the extent to which the indigenous peoples concerned have been involved in the process.

29. Please provide information on the protection against violence afforded to the Yanomami and Yukpa peoples and on efforts to ensure that all acts of violence or intimidation against them are investigated promptly and impartially.

**Dissemination of information about the Covenant and its optional protocols (art. 2)**

30. Please describe the measures taken to disseminate information about the Covenant and its optional protocols, the submission of the State party's report and the Committee's upcoming consideration of the report. Please also provide more detailed information about the participation of representatives of ethnic and minority groups and civil society in the preparation of the report.

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